United Nations S/2008/467

Security Council

Distr.: General
17 July 2008

Original: English

Draft resolution

The Security Council,

Taking note of the letter to the President of the Council from the Secretary-General dated 13 June 2008, attaching the letter to him from the President of the International Criminal Tribunal for Rwanda ("the Tribunal") dated 6 June 2008 (A/62/896-S/2008/436),

Recalling its resolutions 955 (1994) of 8 November 1994, 1165 (1998) of 30 April 1998, 1329 (2000) of 30 November 2000, 1411 (2002) of 17 May 2002, 1431 (2002) of 14 August 2002, 1449 (2002) of 13 December 2002,

Recalling in particular its resolutions 1503 (2003) of 28 August 2003 and 1534 (2004) of 26 March 2004, in which the Security Council calls on the Tribunal to take all possible measures to complete investigations by the end of 2004, to complete all trial activities at first instance by the end of 2008, and to complete all work in 2010,

Recalling that on 13 June 2006, the Security Council decided in resolution 1684 (2006) to extend the term of office of the eleven permanent judges of the Tribunal until 31 December 2008, and that on 13 October 2006, the Security Council decided in resolution 1717 (2006) to extend the term of office of the eighteen ad litem judges of the Tribunal until 31 December 2008,

Noting that two of the permanent judges and one of the ad litem judges currently serving at the Tribunal have indicated their intention to resign in 2008 upon the completion of their respective cases, and that at this stage it is not expected that their replacement will be necessary,

Noting the progress made by the Tribunal towards the completion of its trial work at the earliest date,

Noting the projections provided by the Tribunal as to the completion of all the remaining cases at trial stage before the end of December 2009,

Expressing its expectation that the extension of the terms of office of the judges concerned will enhance the effectiveness of trial proceedings and contribute towards ensuring the implementation of the Completion Strategy,

Acting under Chapter VII of the Charter of the United Nations,

08-42934 (E) 180708

1. *Decides* to extend the term of office of the following permanent judges at the Tribunal who are members of the Appeals Chamber until 31 December 2010, or until the completion of the cases before the Appeals Chamber if sooner:

- Mr. Mehmet Güney (Turkey)
- Ms. Andrésia Vaz (Senegal)

2. *Decides* to extend the term of office of the following permanent judges at the Tribunal who are members of the Trial Chambers until 31 December 2009, or until the completion of the cases to which they are assigned if sooner:

- Mr. Charles Michael Dennis Byron (Saint Kitts and Nevis)
- Mr. Asoka de Silva (Sri Lanka)
- Mr. Sergei Aleckseevich Egorov (Russian Federation)
- Ms. Khalida Rachid Khan (Pakistan)
- Mr. Erik Møse (Norway)
- Ms. Arlete Ramaroson (Madagascar)
- Mr. William Hussein Sekule (United Republic of Tanzania)

3. *Decides* to extend the term of office of the following ad litem judges, currently serving at the Tribunal, until 31 December 2009, or until the completion of the cases to which they are assigned if sooner:

- Ms. Florence Rita Arrey (Cameroon)
- Ms. Solomy Balungi Bossa (Uganda)
- Ms. Taghrid Hikmet (Jordan)
- Mr. Vagn Joensen (Denmark)
- Mr. Gberdao Gustave Kam (Burkina Faso)
- Mr. Lee Gacuiga Muthoga (Kenya)
- Mr. Seon Ki Park (Republic of Korea)
- Mr. Emile Francis Short (Ghana)

4. *Decides* to extend the term of office of the following ad litem judges, who have not yet been appointed to serve at the Tribunal, until 31 December 2009, or until the completion of any cases to which they may be assigned if sooner:

- Mr. Aydin Sefa Akay (Turkey)
- Ms. Karin Hökborg (Sweden)
- Ms. Flavia Lattanzi (Italy)
- Mr. Kenneth Machin (United Kingdom)
- Mr. Joseph Edward Chiondo Masanche (United Republic of Tanzania)
- Tan Sri Dato' Hj. Mohd. Azmi Dato' Hj. Kamaruddin (Malaysia)
- Mr. Mparany Mamy Richard Rajohnson (Madagascar)
- Mr. Albertus Henricus Johannes Swart (Netherlands)
- Ms. Aura E. Guerra de Villalaz (Panama)

5. *Decides* to amend article 11, paragraphs 1 and 2, of the Statute of the International Tribunal for Rwanda and to replace those paragraphs with the provisions set out in the annex to this resolution;

6. *Decides* to remain seized of the matter.

Annex

Article 11: Composition of the Chambers

1. The Chambers shall be composed of **a maximum of** sixteen permanent independent judges, no two of whom may be nationals of the same State, and a maximum at any one time of nine ad litem independent judges appointed in accordance with article 12 ter, paragraph 2, of the present Statute, no two of whom may be nationals of the same State.

2. **A maximum at any one time of** three permanent judges and six ad litem judges shall be members of each Trial Chamber. Each Trial Chamber to which ad litem judges are assigned may be divided into sections of three judges each, composed of both permanent and ad litem judges. A section of a Trial Chamber shall have the same powers and responsibilities as a Trial Chamber under the present Statute and shall render judgement in accordance with the same rules.

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Security Council

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Letter dated 17 July 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Ethiopia to the United Nations addressed to the President of the Security Council

I have the honour to forward herewith a letter addressed to you by Seyoum Mesfin, Minister for Foreign Affairs of the Federal Democratic Republic of Ethiopia, concerning the recent communications of the President of the State of Eritrea (see annex). I would also like to request you to circulate the letter and its annex as a document of the Security Council.

(*Signed*) Negash **Kebret**
Ambassador
Chargé d'affaires a.i.

08-42859 (E) 210708

Annex to the letter dated 17 July 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Ethiopia to the United Nations addressed to the President of the Security Council

17 July 2008

I wished to write to you with reference to the recent communications addressed to you and the Security Council by the President of Eritrea, the latest of which is dated 15 July 2008.

I have to say that these communications barely deserve a response. Indeed, since they contain a number of manifest fabrications it might be most sensible to ignore them with the contempt they deserve. However, there is always a danger that silence might be taken as a sign of acceptance of the content, or even as an indication of weakness or vulnerability.

I am sure the Government of the United States itself is fully able to reply to the wild and extraordinary attacks upon it. It needs no help from us. I can, however, make clear that the references to Musa Ali are pure invention. There has been no Ethiopian military takeover of any territory, Eritrean or Djiboutian. This border area, essentially a mountain peak, is a long way inland from Ras Doumeira, the point of Eritrean aggression against Djibouti in April. According to Eritrea, Ethiopian forces took over Eritrean and Djiboutian territory at Musa Ali. Exactly why Eritrea should keep quiet about this and itself invade Djibouti as a response is incomprehensible.

It would be easy, of course, to verify from the UNMEE contingent which is still deployed at Bure, an Ethiopian town close to said area, if indeed there is such a situation in and around Musa Ali as claimed by Eritrea. Any Security Council fact-finding mission to the area can also easily verify Djibouti's earlier claim of Eritrean aggression as well as the situation at Musa Ali. It might be noted that Djibouti itself has made no such claim about Musa Ali.

We have surely now come to a point where even the most diehard friends of Eritrea, even its most irresponsible supporters, can no longer hide the fact that Eritrea has become a major liability for peace in the Horn of Africa. It has gone to war with almost all its neighbours, with the Sudan, Yemen, Ethiopia and Djibouti. It has continuously supported armed opposition movements, even terrorist organizations, in the region. It has suspended its membership of the regional organization, IGAD, and has consistently and flagrantly set itself in defiance of any number of Security Council resolutions and has demolished the Cessation of Hostilities Agreement as well as forcing out a United Nations mission entrusted with the task of peacekeeping along the border with Ethiopia. It makes no secret of these actions.

Indeed, it is hard to deny that Eritrea has become a rogue State. It has no commitment to peace and security and has rather become a clear liability to stability in the Horn of Africa. In its most recent communications to the Security Council, Eritrea's leadership also demonstrates a shameless ability to fabricate allegations no matter how implausible.

In these circumstances, Ethiopia believes the Security Council should take the challenge posed by Eritrea most seriously. Eritrea is not so much a challenge for

Ethiopia as a challenge to the security of the Greater Horn and surrounding areas as its latest incursions into Djibouti clearly demonstrate. The Security Council must not continue to shirk its responsibility for peace and security in the subregion.

Eritrea must fulfil the international obligations to which it committed itself in 2000, and its regional obligations to peace and stability. These would allow for the restoration of security in the Horn of Africa, for the real possibility of peace in Somalia, and, indeed, for the much needed normalization of relations throughout our region.

(*Signed*) Seyoum **Mesfin**
Minister

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Security Council

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Letter dated 16 July 2008 from the Permanent Representative of Georgia to the United Nations addressed to the President of the Security Council

I have the honour to request your kind assistance in circulating as a document of the Security Council the present letter and the statement of the Ministry of Foreign Affairs of Georgia dated 16 July 2008 (see annex).

(*Signed*) Irakli **Alasania**
Ambassador, Permanent Representative

08-42952 (E) 210708

Annex to the letter dated 16 July 2008 from the Permanent Representative of Georgia to the United Nations addressed to the President of the Security Council

16 July 2008

The Ministry of Defence of the Russian Federation reported on the launch on 15 July of large-scale military exercises — Kavkaz-2008 — in the North Caucasus, in the immediate vicinity of the Georgian State border, involving approximately 8,000 servicemen and 700 pieces of military hardware. The military exercises will also involve units of the Pskov and Novorossisk divisions of air landing troops.

"Assessment of a joint response of military administrations against the background of a terrorist threat in the south of Russia" is declared to be the main goal of the exercises conducted in the North Caucasus.

According to the Russian Defence Ministry, "special peace enforcement operations" in the Georgian-Abkhaz and Georgian-Ossetian conflict zones will also be worked out during the exercises, while the Commander of the North Caucasian Military District, S. Makarov, is quoted as saying that "his troops are ready to assist peacekeepers".

The Ministry of Foreign Affairs of Georgia declares that the aforesaid statements can be viewed as a continuation of the aggressive policy the Russian Federation has been pursuing against Georgia in the recent period. None of the existing documents on conflict resolution gives Russian armed forces the authority to carry out any kind of activity on the territory of Georgia. Hence, the aforesaid statements by the Russian Defence Ministry and top military officials are nothing but a military intervention and a threat of aggression directed against a sovereign State.

The Russian Federation's aggressive policy against Georgia poses a threat to peace and stability in the Caucasus region as a whole. The Russian side should be well aware that, against such a background of developments, successively higher levels of tension in Chechnia, Ingushetia, Dagestan and Kabardino-Balkaria and numerous armed clashes between local combatants and Russian law enforcement agencies may slide into increasing instability that, in our belief, must be far from serving the interests of the Russian Federation.

The Ministry of Foreign Affairs of Georgia urges the Russian side in the strongest terms to refrain from irresponsible statements and stop its aggressive policy against Georgia.

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Security Council

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Letter dated 18 July 2008 from the Permanent Representative of Cambodia to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to provide an account of facts for your attention as well as that of the other members of the United Nations Security Council in relation to Thailand's violation of the sovereignty and territorial integrity of the Kingdom of Cambodia, as follows:

- The Temple of Preah Vihear in Cambodia was inscribed unanimously into the World Heritage List during the thirty-second session of the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Committee in Quebec City, Canada, on 7 July 2008. This gave rise to intense political protests in Thailand from the opposition forces against Thailand's Government. However, in spite of this internal turmoil, Cambodia never expected that Thai soldiers would move in and stay in the Cambodian pagoda.
- On 15 July 2008, about 50 Thai soldiers crossed into Keo Sikha Kiri Svara pagoda, located inside Cambodian territory, about 300 metres from the Temple of Preah Vihear. By 16 and 17 July 2008, the number of Thai soldiers on the grounds of the pagoda had increased to 480.
- The Thai side used its unilaterally designed map (see annex I) to indicate that the pagoda is in the so-called "overlapping area". But, according to the "Annex I map" used by the International Court of Justice to adjudicate the conflict between Cambodia and Thailand over the Temple of Preah Vihear in June 1962 (see annex II), the International Court of Justice stated in its judgment on the matter that:

> "The Court however considers that Thailand in 1908-1909 did accept the Annex I map as representing the outcome of the work of delimitation, and hence recognized the line on that map as being the frontier line, the effect of which is to situate Preah Vihear in Cambodian territory. The Court considers further that, looked at as a whole, Thailand's subsequent conduct confirms and bears out her original acceptance, and that Thailand's acts on the ground do not suffice to negate this. Both Parties, by their conduct, recognized the line and thereby in effect agreed to regard it as being the frontier line" (pg. 30-31);

"The Court considers the acceptance of the Annex I map by the Parties caused the map to enter the treaty settlement and to become an integral part of it" (pg. 31); and

"The Court, therefore, feels bound, as a matter of treaty interpretation, to pronounce in favour of the line as mapped in the disputed area" (pg. 33).

- Taking into account the above decision of the International Court of Justice, the only map which legally delimits the border in the area of the Temple of Preah Vihear is the "Annex I map" (see annex II), based on which the Court made its judgment.

- At the onset of this provoking act and the increasing reinforcement of Thai soldiers on Cambodia's territory, Samdech Hun Sen, Prime Minister of the Kingdom of Cambodia, has made telephone contact with and sent written to His Excellency Samak Sundaravej, Prime Minister of Thailand, calling for actions to defuse the tension and for the immediate withdrawal of Thai troops from the grounds of the pagoda.

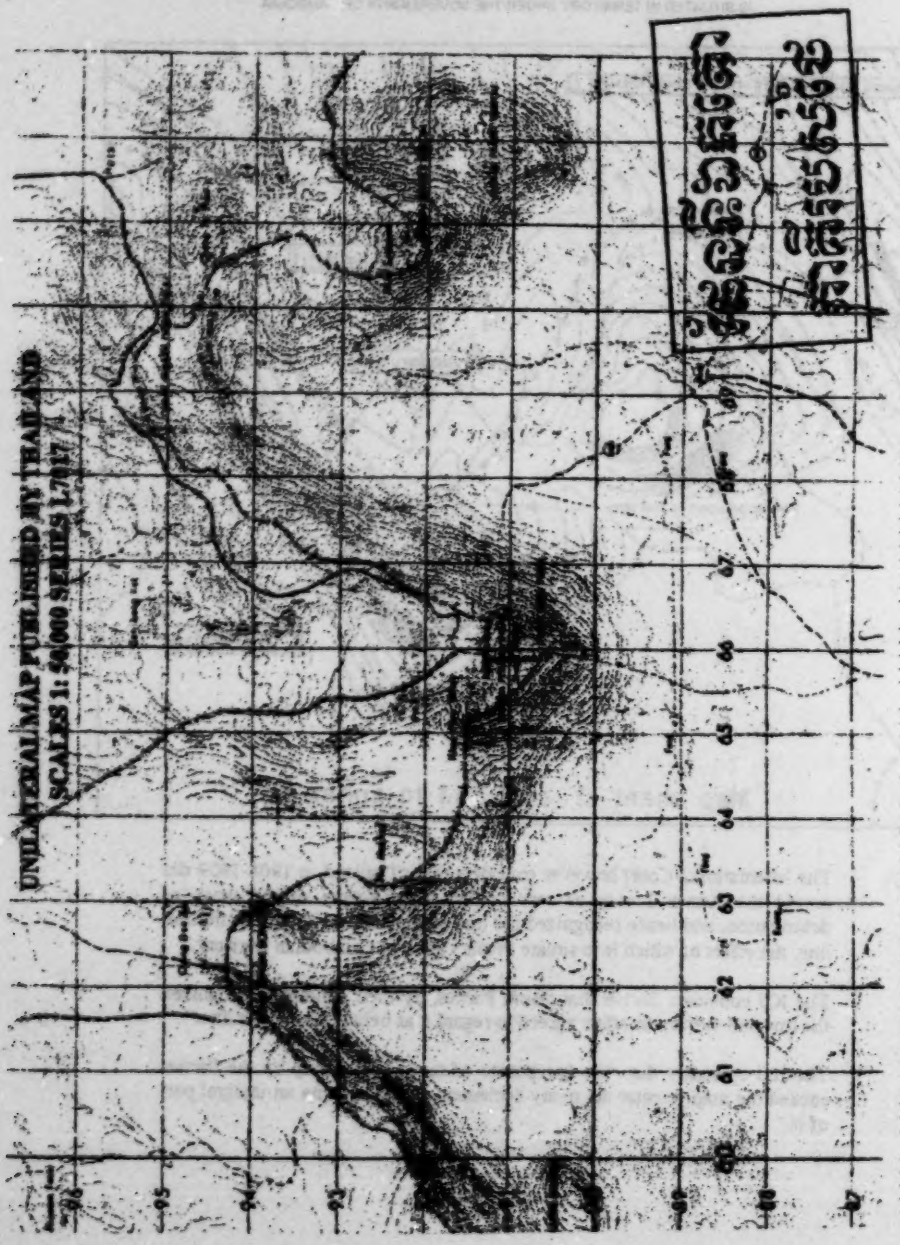
- In his reply to Samdech Hun Sen dated 18 July 2008, His Excellency Samak Sundaravej claimed, apparently based on a map unilaterally designed by the Thai Government, that the pagoda lies in the territory of the Kingdom of Thailand and that the presence of Cambodian residents and military personnel on the grounds of the pagoda is a violation of Thailand's sovereignty and territorial integrity.

- While Cambodia exercises maximum restraint to avoid armed confrontation, we cannot ignore that this Thai military provocation is aimed at creating a de facto "overlapping area" that legally does not exist on Cambodia soil.

I would like to request that the present letter and its annexes be circulated as a document of the Security Council.

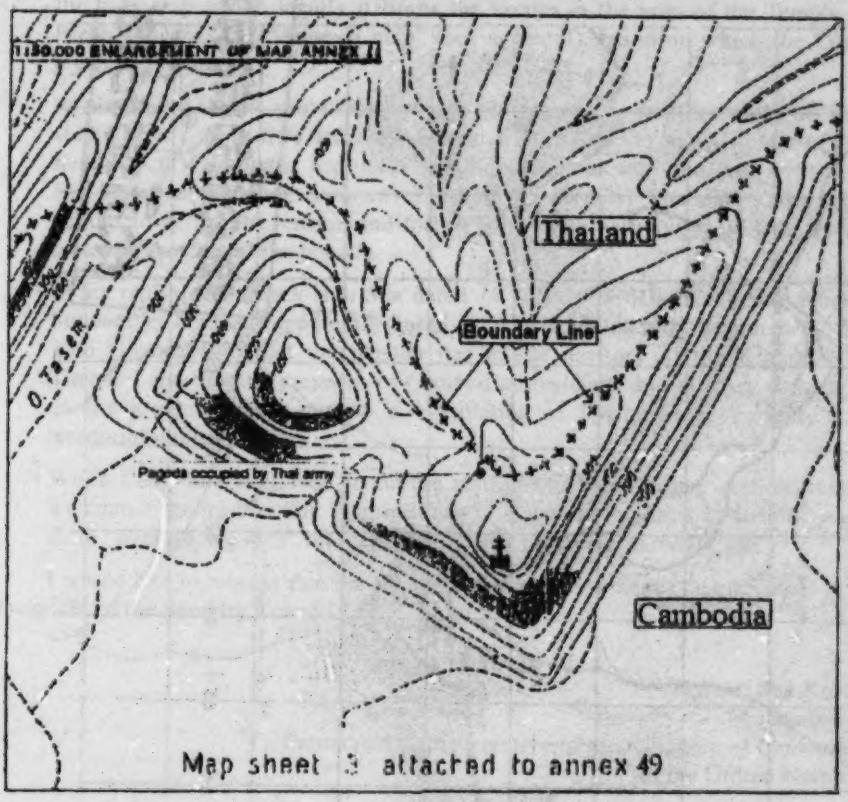
(*Signed*) **Sea** Kosal
Ambassador
Permanent Representative of the Kingdom of Cambodia
to the United Nations

Annex I to the letter dated 18 July 2008 from the Permanent Representative of Cambodia to the United Nations addressed to the President of the Security Council



Annex II to the letter dated 18 July 2008 from the Permanent Representative of Cambodia to the United Nations addressed to the President of the Security Council

MAP BASED ON WHICH ICJ DECIDED THAT THE TEMPLE OF PREAH VIHEAR IS SITUATED IN TERRITORY UNDER THE SOVEREIGNTY OF CAMBODIA



- The International Court however considers that "Thailand in 1908-1909 did accept the Annex I map as representing the outcome of the work of delimitation, and hence recognized the line on that map as being the frontier line, the effect of which is to situate Preah Vihear in Cambodian territory."

- The ICJ considers further that "Both Parties, by their conduct , recognized the line and thereby in effect agreed to regard it as being the frontier line."

- The ICJ considers that "the acceptance of the Annex I map by the Parties caused the map to enter the treaty settlement and to become an integral part of it."